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KEN ESTES

FILED

JUL - 8 2008

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

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9 **UNITED STATES DISTRICT COURT**

10 **NORTHERN DISTRICT OF CALIFORNIA**

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14 UNITED STATES OF AMERICA,

15 Plaintiff,

16 vs.

17 REAL PROPERTY AND IMPROVEMENTS

18 LOCATED AT 4589 CROOKED PRAIRIE

19 ROAD, HUMBOLDT COUNTY,

20 CALIFORNIA, ASSESSOR'S PARCEL

21 NUMBER 221-181-028,

22 Defendant

23 } Case No.: 08-2696 WDR

24 } **CLAIM FOR RETURN OF PROPERTY**
25 } [F.R.C.P. Rule 81]

26 I, KEN ESTES, declare:

27 1. I am the Declarant herein, and make this Declaration based on my personal
knowledge, and could, if called upon, competently testify thereto.

1 2. I am the legal owner of that certain real property situate in Humboldt County,
2 California, being Assessor's Parcel Number 221-181-028, and commonly known as 4589
3 Crooked Prairie Road (hereinafter the "Subject Property") which was seized by the Drug
4 Enforcement Agency ("DEA") on or about May 28, 2008.

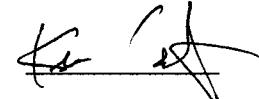
5 3. Seizure of the Subject Property is the objective of a certain "Complaint for
6 Forfeiture" filed on or about May 29, 2008, being Case Number. A true and correct copy of the
7 said Complaint is attached hereto and incorporated herein by reference as though set forth fully.

8 4. I deny each and every allegation contained in the complaint, and pursuant to Rule
9 C(6) of the Admiralty and Maritime Rules of the Federal Rules of Civil Procedure, file this claim
10 for restitution and to defend the action contained in the complaint.

11 5. I am authorized and empowered to make this claim

12 6. I respectfully move for restitution of the Subject Property, and for such other and
13 further relief as may be deemed appropriate.

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15 I declare under penalty of perjury under the laws of the State of California that the
16 foregoing is true and correct and executed on this 8 day of July, 2008, at Berkeley California.
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KEN ESTES

22 SEE NOTARY'S CERTIFICATE ATTACHED .
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CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

State of California

County of AlamedaOn July 8, 2008 before me,Mary S. Bapi NOTARY PUBLIC

(Here insert name and title of the officer)

personally appeared KENNETH ESTES

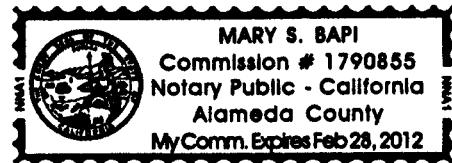
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public

(Notary Seal)



ADDITIONAL OPTIONAL INFORMATION

INSTRUCTIONS FOR COMPLETING THIS FORM

Any acknowledgment completed in California must contain verbiage exactly as appears above in the notary section or a separate acknowledgment form must be properly completed and attached to that document. The only exception is if a document is to be recorded outside of California. In such instances, any alternative acknowledgment verbiage as may be printed on such a document so long as the verbiage does not require the notary to do something that is illegal for a notary in California (i.e. certifying the authorized capacity of the signer). Please check the document carefully for proper notarial wording and attach this form if required.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. he/she/they, is / are) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
 - ◆ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
 - ◆ Indicate title or type of attached document, number of pages and date.
 - ◆ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document.

DESCRIPTION OF THE ATTACHED DOCUMENT

CERT FOR RETURN
(Title or description of attached document)
OF REAL PROPERTY
(Title or description of attached document continued)

Number of Pages 2 Document Date _____

(Additional information)

CAPACITY CLAIMED BY THE SIGNER

- Individual (s)
 Corporate Officer

(Title)

- Partner(s)
 Attorney-in-Fact
 Trustee(s)
 Other _____

EXHIBIT “A”

08/08/08
FEDERAL DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

1 JOSEPH P. RUSSONIELLO (CSBN 44332)
2 United States Attorney

3 BRIAN J. STRETCH (CSBN 163973)
4 Chief, Criminal Division

5 DAVID B. COUNTRYMAN (CSBN 226995)
6 Assistant United States Attorney

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8 San Francisco, CA 94102
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12 Attorneys for United States of America

13 UNITED STATES DISTRICT COURT

14 NORTHERN DISTRICT OF CALIFORNIA

15 UNITED STATES OF AMERICA,

16 Plaintiff,

v.

17 REAL PROPERTY AND IMPROVEMENTS
18 LOCATED AT 4589 CROOKED PRAIRIE
19 ROAD, HUMBOLDT COUNTY,
20 CALIFORNIA, ASSESSOR'S PARCEL
21 NUMBER 221-181-028

22 COMPLAINT FOR FORFEITURE

23 Defendant.

24 In this *in rem* forfeiture action, the United States alleges:

25 JURISDICTION

26 1. This Court has jurisdiction under Title 28, United States Code, Sections 1345 and
27 1355, and Title 21 United States Code, Section 881.

28 PARTIES

29 2. Plaintiff is the United States of America.

30 3. Defendant is the real property and improvement located at 4589 Crooked Prairie
31 Road, Humboldt County, California, Humboldt County Assessor's Parcel Number (APN) 221-

1 181-028, and further described below/or in Exhibit A (hereinafter "defendant real property").
 2 Defendant real property is a multi-acre rural parcel located in Humboldt County, and Kenneth W.
 3 Estes is an owner of record of defendant real property.

4 **VENUE**

5 4. Venue lies in the Northern District of California pursuant to Title 28, United
 6 States Code Sections 1355(b) and 1395(a) and (b), as the acts giving rise to this *in rem* action
 7 occurred in this district and the defendant real properties are located in this district.

8 **FACTS**

9 5. Plaintiff incorporates by reference the allegations of paragraphs one through four
 10 as though fully set forth herein.

11 6. On August 27, 2003, DEA agents participated in a federal search warrant at
 12 defendant real property. The search warrant resulted in the seizure of approximately 1,027
 13 marijuana plants growing inside of a main building that had been equipped with high-intensity
 14 lights. Agents also found a diesel generator in a small wooden shed that provided electricity to
 15 the main building.

16 7. On September 13, 2006, DEA agents served a federal search warrant at defendant
 17 real property. The search warrant resulted in the seizure of approximately 706 growing
 18 marijuana plants. Agents found 678 plants growing in 12 different outdoor cultivation areas
 19 around the property. In the main building, agents found a room that contained chicken wire
 20 drying racks and boxes of marijuana trimmings. Next to the main building, agents found a new
 21 beige-colored structure with an attached greenhouse containing 28 marijuana plants and an
 22 inactive six-light marijuana cultivation room. Agents also found two empty wooden structures
 23 set away from the main building..

24 8. On September 20, 2007, the Humboldt County Sheriff's Office, assisted by the
 25 DEA, executed a California state search warrant at defendant real property. Agents located over
 26 150 marijuana plants growing outdoors in various locations.

27 9. During the execution of the search warrant, agents interviewed Anthony Nguyen
 28 and An Dinh. Both individuals stated that their sole occupation was growing marijuana on

defendant real property for Kenneth Estes.

10. On May 28, 2008, DEA agents served a third federal search warrant at defendant real property. Agents seized over 400 marijuana plants growing inside of the two wooden structures that had previously been empty. Agents also discovered two diesel generators, one of which was used to provide electricity to the buildings where the marijuana was found. Agents also located a room in the main building that was set up with trays and fluorescent lights in order to clone marijuana plants.

11. During the execution of the warrant, DEA Special Agent Carlos Alfaro interviewed Peter Nguyen, who resided in the main structure located on the defendant real property. Mr. Nguyen stated that his sole occupation was growing marijuana on defendant real property for Kenneth Estes.

CLAIM FOR RELIEF

21 U.S.C. § 881(a)(7)

(forfeiture of property used to facilitate drug trafficking)

15 12. Plaintiff incorporates by reference the allegations of paragraphs one through 11 as
16 though fully set forth.

17 13. Title 21, United States Code, Section 881(a)(7) provides for the forfeiture of all
18 real property, including any right, title and interest, which is used or intended to be used, in any
19 manner or part, to commit, or to facilitate the commission of a violation of Title 21, United
20 States Code, Chapter 13, Subchapter I, to include Title 21, United States Code, Section
21 841(a)(1).

22 14. In light of the foregoing, the defendant real property represents property which
23 facilitated a violation of Title 21, United States Code, Section 841(a)(1) – marijuana cultivation,
24 and thus subject to forfeiture to the United States pursuant to Title 21, United States Code,
25 Section 881(a)(7).

PRAYER FOR RELIEF

27 15. The United States has not seized defendant real property. The United States will,
28 as provided in Title 18, United States Code, Section 985(b)(1) and (c)(1):

- a. Post notice of this action and a copy of this Complaint for Forfeiture at defendant real property;
- b. Serve notice of this action together with a copy of the Complaint for Forfeiture and related documents, on the owners of record of defendant real property; and
- c. Record *lis pendens* in the county records for the Humboldt County to demonstrate the status of defendant real property in this *in rem* action.

Respectfully submitted,

JOSEPH P. RUSSONIELLO
United States Attorney

Dated: May 20 2008

~~STEPHANIE M. HINDS~~
~~Assistant United States Attorney~~

Assigned to:



AUSA D. Countryman

1
2 **VERIFICATION**
3

4 I, Brian Cole, state as follows:

5 1. I am a Special Agent with the Drug Enforcement Administration. As such, I am
6 familiar with the facts, and the investigation leading to the filing of this Complaint for Forfeiture.

7 2. I have read the Complaint for Forfeiture, and based upon review of relevant
8 investigative reports, review of documentary evidence, discussions with other persons involved
9 in the investigation, and participation in the investigation, I believe the allegations contained in it
10 to be true.

11 * * * * *

12 I declare under penalty of perjury that the foregoing is true and correct. Executed this
13 28th day of May, 2008, in San Francisco, California.

14
15
16 (SA) Brian Cole
17 BRIAN COLE
18 Special Agent
19 Drug Enforcement Administration
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Exhibit A

Exhibit "A"

Real property in the unincorporated area of the County of Humboldt, State of California, described as follows:

PARCEL ONE

THE EAST HALF OF THE NORTHWEST QUARTER OF SECTION 33, TOWNSHIP 3 SOUTH, RANGE 2 EAST, HUMBOLDT MERIDIAN.

THE ABOVE DESCRIBED PROPERTY BEING DESIGNATED PARCEL 1 ON PARCEL MAP NO. 1063 ON FILE IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, IN BOOK 9 OF PARCEL MAPS AT PAGES 83 AND 84.

PARCEL TWO

A NON-EXCLUSIVE RIGHT OF WAY FOR INGRESS, EGRESS AND PUBLIC UTILITIES, TO BE USED IN COMMON WITH OTHERS, WITHIN A STRIP OF LAND 60 FEET WIDE, THE CENTER LINE OF WHICH BEING MORE PARTICULARLY DESCRIBED AND DESIGNATED "CENTERLINE OF A 60 FOOT WIDE PRIVATE RIGHT OF WAY", ON THE RECORD OF SURVEY ON FILE IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, IN BOOK 23 OF SURVEYS AT PAGE 93, AS GRANTED IN DEED DATED APRIL 3, 1974, EXECUTED BY ERNEST M. MCKEE, JR. AND PATRICIA MCKEE, HUSBAND AND WIFE, AND MCKEE AND SONS, INC., A CALIFORNIA CORPORATION, AND RECORDED APRIL 12, 1974, IN BOOK 1234 OF OFFICIAL RECORDS AT PAGE 494, UNDER RECORDER'S FILE NO. 6390, HUMBOLDT COUNTY RECORDS, AND RE-RECORDED MAY 10, 1974, IN BOOK 1238 OF OFFICIAL RECORDS AT PAGE 460, UNDER RECORDER'S FILE NO. 8276.

PARCEL THREE

A NON-EXCLUSIVE RIGHT OF WAY FOR INGRESS, EGRESS AND PUBLIC UTILITIES, TO BE USED IN COMMON WITH OTHERS, WITHIN A STRIP OF LAND 60 FEET WIDE, THE CENTER LINE OF WHICH BEING MORE PARTICULARLY DESCRIBED AND DESIGNATED "CENTERLINE OF A 60 FOOT WIDE PRIVATE RIGHT OF WAY", ON THE RECORD OF SURVEY ON FILE IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, IN BOOK 23 OF SURVEYS AT PAGE 31, AS GRANTED IN DEED DATED APRIL 3, 1974, EXECUTED BY ERNEST H. MCKEE, JR. AND PATRICIA MCKEE, HUSBAND AND WIFE, AND MCKEE AND SONS, INC., A CALIFORNIA CORPORATION, AND RECORDED APRIL 12, 1974, IN BOOK 1234 OF OFFICIAL RECORDS AT PAGE 494, UNDER RECORDER'S FILE NO. 6390, AND RE-RECORDED MAY 10, 1974, IN BOOK 1238 OF OFFICIAL RECORDS AT PAGE 460, UNDER RECORDER'S FILE NO. 8276.

PARCEL FOUR

A NON-EXCLUSIVE RIGHT OF WAY FOR INGRESS, EGRESS AND PUBLIC UTILITIES, TO BE USED IN COMMON WITH OTHERS, OVER THAT PORTION OF THE ROAD DESIGNATED AS "CENTERLINE OF 60 FOOT PRIVATE RIGHT WAY", ON THE RECORD OF SURVEY MADE BY JOSEPH J. SCHERF, WHICH SURVEY IS ON FILE IN THE COUNTY RECORDER'S OFFICE OF HUMBOLDT COUNTY, IN BOOK 22 OF SURVEYS, PAGES 121 TO 124 INCLUSIVE, AS CONVEYED TO DELMAR W. EGGLESTON AND WIFE, BY DEED RECORDED SEPTEMBER 13, 1968, IN BOOK 975 OF OFFICIAL RECORDS, PAGE 41.

EXCEPTING FROM SAID PARCEL FOUR THAT PORTION THEREOF LYING WITHIN THE NORTH HALF OF THE SOUTHWEST QUARTER OF SECTION 3, TOWNSHIP 4 SOUTH, RANGE 2 EAST, HUMBOLDT MERIDIAN.

PARCEL FIVE

A NON-EXCLUSIVE RIGHT OF WAY FOR INGRESS, EGRESS AND PUBLIC UTILITIES TO BE USED IN COMMON WITH OTHERS OVER THAT PORTION OF THE ROAD DESIGNATED AS "EXISTING PRIVATE ROAD" ON RECORD OF SURVEY ON FILE IN THE COUNTY RECORDER'S OFFICE OF HUMBOLDT COUNTY, IN BOOK 22 OF SURVEYS, PAGE 66 TO 69 INCLUSIVE, RUNNING FROM STATION 234+19.44 E.C., AS SHOWN ON THE ABOVE SURVEY, BEING ALSO THE SOUTHERLY TERMINUS OF COURSE 1, AS SHOWN ON THE RECORD OF SURVEY ON FILE IN BOOK 22 OF SURVEYS, PAGES 121 TO 124 INCLUSIVE, SOUTHEASTERLY TO THE COUNTY ROAD IN SECTION 24, TOWNSHIP 4 SOUTH, RANGE 2 EAST, HUMBOLDT MERIDIAN, AS CONVEYED TO DELMAR W. EGGLESTON AND WIFE, BY DEED RECORDED SEPTEMBER 13, 1968, IN BOOK 975 OF OFFICIAL RECORDS, PAGE 41.

APN: 221-181-028

PROOF OF SERVICE
United States v. 4589 Crooked Lane, etc.
Case No. 08-2696

I, THOMAS M. SWIHART, declare:

I am over the age of eighteen years and not a party to the cause of action. My business address is 2039 Shattuck Avenue, Suite 308, Berkeley, CA 94704. On July 9, 2008, I served the documents described as: **CLAIM FOR RETURN OF PROPERTY** on the interested parties in this matter by placing a true copy thereof in a sealed envelope(s) addressed as follows:

**David B. Countryman, AUSA
Office of the US Attorney
450 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102**

Service of the above document(s) was effectuated by the following means of service:

- [x] **By First Class Mail** — I am readily familiar with this office's practice for collection and processing of correspondence for mailing with the United States Postal Service. It is deposited with the United States Postal Service in the ordinary course of business on the same day it is processed for mailing. I caused such envelope(s) to be deposited in the mail at Berkeley, California. The envelope was mailed with postage thereon fully prepaid.

[] **By Personal Service** -- By causing to personally deliver a true copy thereof in a sealed envelope.

[] **By Overnight Delivery Service** -- I caused such envelope(s) to be deposited in a box or other facility regularly maintained by the express service carrier or delivered to an authorized courier or driver authorized by the express service carrier to receive documents. The envelope was deposited with the express service carrier with delivery fees paid or provided for.

[x] **Facsimile Transmission** -- I served the documents in this matter via facsimile transmission to: (415) 436-6748

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and executed this day of July 9, 2008, at Berkeley, California.

~~THOMAS M. SWIFT~~

TIME : 07/09/2008 11:36

DATE, TIME
FAX NO./NAME
DURATION
PAGE(S)
RESULT
MODE

07/09 11:29
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